

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CLARENCE A. BRANCH,
Plaintiff,

v.

STATE OF CALIFORNIA,
Defendant.

Case No. 14-cv-00297-JCS

**ORDER DISMISSING AMENDED
COMPLAINT WITH PREJUDICE
UNDER 28 U.S.C. § 1915**

Re: Dkt. No. 13

I. INTRODUCTION

On February 25, 2014, the Court dismissed Plaintiff Clarence Branch's original complaint with leave to amend within thirty days. *See* Dkt. No. 11. On March 25, 2014, Plaintiff filed an Amended Complaint. *See* Dkt. No. 13 ("Am. Compl."). Having reviewed the Amended Complaint, the Court finds that it contains the same deficiencies as the original complaint. Specifically, subject matter jurisdiction is lacking and Plaintiff has failed to state a claim. For the reasons explained below, Plaintiff's Amended Complaint is **DISMISSED** with prejudice, and the Clerk is directed to close the file.¹

II. REVIEW UNDER 28 U.S.C. § 1915

A court must dismiss an *in forma pauperis* complaint that is (1) frivolous or malicious; (2) fails to state a claim upon which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e)(2). Additionally, a case must be dismissed if a court determines "at any time" that federal subject matter jurisdiction is lacking. *See* Fed. R. Civ. P. 12(h)(3). The Court has reviewed the Amended Complaint in this case, and it

¹ Plaintiff has consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).

1 finds that it suffers from the same flaws as the original complaint. The Court dismisses this case
2 with prejudice based on two independent grounds: (1) Plaintiff fails to properly allege federal
3 subject matter jurisdiction; and (2) Plaintiff fails to state a claim upon which relief may be granted.

4 **A. Amended Complaint**

5 The Amended Complaint is captioned, “Compel Suppression Amended Complaint.” *See*
6 *Am. Compl.* at 1. Plaintiff writes, “I Pray, Request as amended. United States Attorney [sic], Los
7 Angeles, CA, District Attorney [sic], Los Angeles, CA.” *Id.* The next five pages consist of a list in
8 question and answer format that appears to reference a variety of topics, including a writ of habeas
9 corpus, unlawful detainer, consent pursuant to 28 U.S.C. § 636(c), supplementary findings of the
10 Court of Appeals, expansion to a multidistrict panel, diversity of citizenship, federal jurisdiction,
11 and standing orders. *See id.* at 2–6. Included in this list are references to appendices that Plaintiff
12 attaches to the Amended Complaint, which consist of previous filings in this action, excerpts from
13 what appear to be legal reference books, United States Public Law excerpts, state court records
14 from California and Texas, excerpts of the Civil Standing Orders of the undersigned and
15 Magistrate Judge Jacqueline S. Corley, and the ECF docket sheet in this action (“Appendices”).
16 *See id.* at 7–23. The Amended Complaint does not contain a narrative of any events that occurred
17 involving Plaintiff, nor does it contain any other explanation of the claims that Plaintiff is trying to
18 bring.

19 **B. Subject Matter Jurisdiction**

20 Federal courts have subject matter jurisdiction over a case only if there is diversity or a
21 federal question. *See* 28 U.S.C. §§ 1331, 1332. Here, Plaintiff has failed to allege subject matter
22 jurisdiction based on either diversity or a federal question.

23 First, Plaintiff does not allege diversity of citizenship of the parties, nor does he allege an
24 amount in controversy of over \$75,000. *See* 28 U.S.C. § 1332. Plaintiff’s residency remains
25 unclear—his address on the cover page is listed as “unkown [sic]”—and so diversity of citizenship
26 is difficult to discern. *See Am. Compl.* at 1. Plaintiff appears to allege that there is diversity
27 because the case has been transferred to the Department of Justice. *See id.* at 4. To support this
28 assertion, he points to Appendix D, which appears to be a court record of some kind dated

December 16, 2011, noting: “arrest disposition report sent via file transfer to Department of Justice.” *See id.* at 18. However, it is not clear who authored the document, where the document is from, or what it is about. Further, even if the Court were able to discern the nature of the document, the Court fails to see how it would support a finding of diversity. Even assuming that the parties are diverse, Plaintiff does not allege that the amount in controversy exceeds \$75,000. He includes the number “75,000” in his Amended Complaint, but to the extent that this is a demand, it is not supported by any explanation of what the claim is for or who the claim is against. *See id.* at 4. Accordingly, Plaintiff has failed to allege subject matter jurisdiction on the basis of diversity.

Second, Plaintiff fails to properly allege a federal question because Plaintiff has failed to identify any claims at all. Plaintiff appears to allege that there is federal question jurisdiction with the notation, “prima facie evidence and violation, habeas corpus jurisdiction.” *See id.* at 4. To support this assertion, he points to Appendix E and E1, which appear to be excerpts of Public Laws regarding forfeitures in the context of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. § 881(a), and provisions regarding writs of habeas corpus. *See id.* at 19–20. However, Plaintiff does not explain how his situation applies to the laws that he cites. To the extent that he may be seeking a writ of habeas corpus, this does not appear to be applicable because Plaintiff does not appear to be in custody. *See* 28 U.S.C. § 2241 (writs of habeas corpus may be extended to individuals in custody). Accordingly, Plaintiff has failed to allege subject matter jurisdiction on the basis of a federal question.

C. Failure to State a Claim

The Court must dismiss an *in forma pauperis* complaint that fails to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(e)(2). In determining whether Plaintiff fails to state a claim, the Court assumes that all factual allegations in the Complaint are true. *Parks Sch. of Bus. v. Symington*, 51 F.3d 1480, 1484 (9th Cir. 1990). However, “the tenet that a court must accept a complaint’s allegations as true is inapplicable to . . . mere conclusory statements.” *Ashcroft v. Iqbal*, 556 U.S. 662, 663 (2009). The pertinent question is whether the factual allegations, assumed to be true, “state a claim to relief that is plausible on its face.” *Id.* at 663

(quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Where the complaint has been filed by a pro se plaintiff, as is the case here, courts must “construe the pleadings liberally and [] afford the petitioner the benefit of any doubt.” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (citation omitted).

Here, the Amended Complaint does not identify any claims at all. Construing the pleadings liberally, it appears that Plaintiff is attempting to challenge his past arrests or citations. However, he has not provided any explanation of the basis for his challenge. The legal citations that he provides are not accompanied by any explanation of how they apply to his case, and the Court cannot discern any claims from Plaintiff’s pleadings.

In general, “[d]ismissal without leave to amend is improper unless it is clear . . . that the complaint could not be saved by an amendment.” *Petersen v. Boeing Co.*, 715 F.3d 276, 280 (9th Cir. 2013) (citations omitted). However, “[t]he district court’s discretion to deny leave to amend is particularly broad where plaintiff has previously amended the complaint.” *Cafasso, United States ex rel. v. Gen. Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1058 (9th Cir. 2011) (citations omitted) (internal quotation marks omitted).

The Court previously granted Plaintiff leave to amend and instructed Plaintiff regarding the deficiencies in his original Complaint. Plaintiff’s Amended Complaint does not cure those deficiencies. Nor has Plaintiff alleged any facts suggesting that the shortcomings can be cured by further amendment. Accordingly, Plaintiff’s Amended Complaint is DISMISSED with prejudice. The Clerk is instructed to close the file.

IT IS SO ORDERED.

Dated: April 25, 2014


JOSEPH C. SPERO
United States Magistrate Judge